

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

THE HUNTINGTON NATIONAL BANK,

Plaintiff,

vs.

Case No. 19-10890

Hon. Stephen J. Murphy, III

SAKTHI AUTOMOTIVE GROUP, et al,

Defendants.

/

**EMERGENCY MOTION TO APPOINT RECEIVER**

BEFORE THE HONORABLE STEPHEN J. MURPHY, III  
United States District Judge  
Theodore Levin United States Courthouse  
231 West Lafayette Boulevard  
Detroit, Michigan 48226  
Thursday, March 28, 2019

APPEARANCES:

For the Plaintiff  
The Huntington Bank:

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For the Defendant  
Sakthi Automotive Group,  
et al:

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(Appearances continued next page)

1 APPEARANCES: Continued

2 Interested Party J. MICHAEL HUGET  
3 General Motors LLC: Honigman LLP  
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734-418-4254

5 Interested Party ARTHUR THOMAS O'REILLY  
6 AAPICO Hitech PLC: Jones Day  
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EXHIBITSIdentificationOfferedReceived

NONE

1 Detroit, Michigan

2 Thursday, March 28, 2019

3 — — —

4 (Proceedings commenced at 10:57 a.m., all parties  
5 present)

6 THE CLERK: The Court calls Case No. 19-cv-10890,  
7 Huntington National Bank versus Sakthi Automotive Group.

8 Counsel, please state your appearances for the  
9 record.

10 MR. OPINCAR: Good morning, Your Honor. Scott  
11 Opincar and Alexander Ayar of McDonald Hopkins on behalf of the  
12 Huntington National Bank, successor by merger to FirstMerit  
13 Bank. Also with me in court today, Your Honor, I have Glenn  
14 Bartley and Barry O'Neill, each Senior Vice Presidents with the  
15 Huntington National Bank.

16 THE COURT: Okay. Welcome. Who -- welcome. Who's  
17 Alex? Oh, hello. I was going to call you Mike.

18 MR. HUGET: I am Mike.

19 THE COURT: Yeah.

20 MR. HUGET: Yes. Good morning, Your Honor. Michael  
21 Huget on behalf of General Motors. We're not a non-party but  
22 we have an interest in this -- in this matter that I can  
23 explain a little later.

24 THE COURT: All right.

25 MR. HUGET: And with me in the courtroom is Aaron

1 Silver of the General Motors legal staff.

2 THE COURT: All right. Okay.

3 THE COURT REPORTER: I'm sorry, what was the last  
4 name?

5 MR. HUGET: Aaron Silver.

6 THE COURT REPORTER: Silver. Thank you.

7 MR. HUGET: Thank you.

8 THE COURT: Okay. And I was going to --

9 MR. O'REILLY: Good morning, Your Honor.

10 THE COURT: -- call you Arthur, but that's -- Mr.  
11 O'Reilly and Mr. Huget are here, right?

12 MR. O'REILLY: Your Honor, Arthur O'Reilly from the  
13 Jones Day firm representing AAPICO, A-A-P-I-C-O, Hitech PLC.  
14 With me is also my partner from our Ohio office, Tom Wearsch.

15 THE COURT: All right. Who's Alex? You're Alex?

16 MR. AYAR: Yeah, Alex Ayar, Your Honor.

17 THE COURT: Are you from Cleveland?

18 MR. AYAR: No, Your Honor, I'm from the Detroit  
19 office.

20 THE COURT: All right. Make sure you file an  
21 appearance on the record because we don't have you on the  
22 docket sheet right now, okay?

23 MR. AYAR: Yes, Your Honor. I'll be surely -- I  
24 thought I did yesterday but I'll confirm that it's on there.

25 THE COURT: Maybe you did. As -- whenever I got this

1 from my law clerk, maybe that was before you did it. So if you  
2 did --

3 MR. AYAR: Thank you, Your Honor.

4 THE COURT: -- you're taken care of.

5 MR. OPINCAR: Your Honor, if -- if I may, this is  
6 Scott Opincar.

7 THE COURT: Yeah.

8 MR. OPINCAR: The question was for -- for me, Your  
9 Honor. I was admitted December 4th of 2000 [sic] to practice  
10 before the Court. I was having trouble getting my ECF login  
11 information, but I did receive it and I did file my Notice of  
12 Appearance.

13 THE COURT: Yeah, I think you're fine. I just hadn't  
14 seen Alex's name before, but anyway. Well, we don't go on  
15 first names in this -- in this courtroom. I just forgot Mr.  
16 Huget's last name.

17 So in any event, let's turn it over to Mr. Essad. Go  
18 right ahead.

19 MR. ESSAD: Good morning, Your Honor. Ernest Essad  
20 on behalf of all defendants. With me is David Sheaffer from my  
21 office. We're from Williams, Williams, Rattner & Plunkett.

22 THE COURT: Right. Welcome to you and it's nice to  
23 see you as well.

24 All right. FirstMerit was a bank that extended  
25 credit and loans, which were memorialized in a number of

1 documents to Sakthi Automotive Group, Sakthi America  
2 Corporation, Sakthi Real Estate Holdings and a number of their  
3 other -- I mean -- I mean it's a -- it's a very basic case.  
4 The bank attempted to secure their obligations with security  
5 interests, liens and things of that nature.

6           Huntington says that it holds a perfected security  
7 interest in collateral, and -- and now they also claim a  
8 default in the amount of \$19 million-plus. The bank sent the  
9 defendants a Notice of a Default on -- on March 13th and now  
10 they want a temporary restraining order and -- based on the  
11 breach of contract in the loan doc -- doc -- memorialized by  
12 the loan documents and the appointment of a receiver.

13           So the only reason we're here today is to determine  
14 whether I should enter a temporary restraining order and  
15 appoint a receiver, and I'd certainly love to hear from Mr.  
16 Opincar for that purpose if you want to go ahead.

17           MR. OPINCAR: Thank you, Your Honor. Scott Opincar  
18 on behalf of the Huntington National Bank.

19           Your Honor, we're faced with a situation where  
20 payroll is due tomorrow. Payroll typically is funded today  
21 between 2:00 and 3:00 o'clock p.m.

22           In addition, Your Honor, Huntington, like GM, and  
23 GM's counsel is here and you can hear from him, have lost faith  
24 in the management of this company. We've been negotiating back  
25 and forth with Sakthi, with GM since November of 2018. It's

1     been unfulfilled promise after unfulfilled promise. Numerous  
2     events of default exist under our loan documents, and those  
3     were evidenced by Mr. O'Neill's affidavit attached as Exhibit A  
4     to the motion.

5             In addition, Your Honor, Huntington, based on those  
6     defaults, did send out a Notice of Default whereby we notified  
7     the defendants that our debt was accelerated and that our  
8     obligations to make revolving term loans -- sorry, revolving  
9     loans have terminated. We are making discretionary advances.

10            Your Honor, we've also been in discussions with  
11     AAPICO and also GM in connection for a path forward to the  
12     extent Your Honor appoints a receiver. To the extent that a  
13     receiver is appointed, there will be a financing motion filed  
14     with the Court by the receiver and AAPICO providing for a  
15     \$25 million facility that will come in in accordance with the  
16     Intercreditor Agreement to fund this receivership.

17            In addition, the parties have been negotiating the  
18     weekend, wee hours of the morning for the last three days an  
19     accommodation agreement that would be proposed with the  
20     Receiver whereby GM would agree, subject to certain conditions  
21     therein, including, one, stability and a clear path forward,  
22     that they will not resource.

23            The major risk here, Your Honor, is that GM  
24     resources. Sakthi is a sole source supplier on certain  
25     component parts for their T1XX large SUV and truck platform.



1 They're a just-in-time supplier and there have been  
2 inefficiencies in connection with the production.

3 There's currently \$11 million of premium air freight  
4 charges that could be offset in addition to other charges that  
5 GM could offset. If GM offsets, Your Honor, we are entitled  
6 under the terms of our loan documents to take a reserve under  
7 the borrowing base.

8 So to the extent --

9 THE COURT REPORTER: Mr. Opincar, I really need you  
10 to slow down please.

11 MR. OPINCAR: Oh, sure thing. I apologize.

12 It's a -- the issue, Your Honor, is that absent an  
13 agreement, GM could offset \$11 million of premium air freight  
14 that eviscerates the availability under the borrowing base.

15 THE COURT: Well, what -- what -- what's the evidence  
16 that anything bad -- bad is going to happen? I mean Mr. Essad  
17 filed his -- his -- his response today, and it seems to me if  
18 the payroll isn't made, that would be one thing, but they  
19 haven't defaulted yet. They haven't suspended operations.

20 I don't -- and obviously you cited *Meyer Jewelry*, and  
21 we all know what the four factors for the issuance of an  
22 injunction are. I was just thinking about this kind of  
23 practically. I -- I -- I learned about this like yesterday  
24 when I was reading the charge to a jury in a criminal trial,  
25 and so I'm obviously less than 24 hours into this. But I

1     could -- I could preserve the status quo, but I'd -- I'd say  
2     okay, Sakthi, continue to -- to operate your plant, continue to  
3     pay your employees, continue to supply General Motors, but  
4     beyond that, I don't know exactly what else the status quo  
5     would -- would -- would -- would be necessarily.

6             MR. OPINCAR: The -- the issue, Your Honor, in  
7     connection with the irreparable harm, is whether or not --  
8     again, what accommodations GM will provide. And again,  
9     Huntington is under no obligation to continue to make advances  
10    under the revolving loan. There's discretionary advances.

11            THE COURT: Right.

12            MR. OPINCAR: I disagree completely with the  
13    unverified statement from Sakthi that no events of default have  
14    occurred. We've taken the time to specifically list those out.  
15    There's multiple events of default that have occurred.

16            In addition, as outlined in our agreements, Your  
17    Honor, pursuant to the loan documents, there's been an absolute  
18    consent to the immediate appointment of a receiver without  
19    notice. For reference, Section 11.5 of the Credit Agreement,  
20    Section 7(d) on page 15 of each of the mortgages, Exhibit D and  
21    Exhibit E respectfully.

22            THE COURT: Well, I agree -- all right. First of  
23    all, I -- the affidavit of Mr. O'Neill provides evidence of  
24    breach and default. Now, whether there's defenses and factual  
25    matters, that's -- that's going to play out over the week. So

1 I certainly think you belong here in terms of being heard on  
2 the -- on the TRO.

3 One of the problems I have with the receiver  
4 business -- well, let me say a couple of things about the  
5 receiver. *Meyer Jewelry*, beyond what the briefing has said,  
6 also stated -- and that's an Eastern Michigan case obviously --  
7 "The" -- quote, "The appointment of a receiver is an  
8 extraordinary equitable remedy that's justified only in extreme  
9 situations." Of course, the Sixth Circuit said that the role  
10 of a receiver is to safeguard disputed assets, to suitably  
11 administer the receivership property and to assist the district  
12 court in achieving a final equitable distribution of the  
13 assets.

14 The plaintiffs here want -- and they have submitted  
15 more than 200 pages of loan documents. They want the receiver  
16 to, quote, "employ a consultant to assist in the marketing  
17 process pursuant to an engagement agreement on terms and  
18 conditions agreed upon by the plaintiff and the receiver  
19 without further order of the Court, to retain or terminate any  
20 existing professionals of the defendants, including  
21 consultants, accountants, attorneys in sole reasonable  
22 discretion." There's nothing in this paragraph 11.5 that deals  
23 with any of those things. I mean what these guys are saying is  
24 that you want to do a corporate takeover using the provisions  
25 of -- of -- of federal civil rules to do it, and I'm sure

1 General Motors would, under the circumstances that Mr. O'Neill  
2 lays out, want different management, but I can't, you know -- I  
3 can't -- go ahead.

4 MR. OPINCAR: Your Honor, again, we -- we disagree  
5 strongly with the allegations raised by the defendants in  
6 connection with their defendants' emergency answer. There's  
7 been no scheme, there isn't any controversy behind the  
8 curtains, Your Honor. What we have is we have a situation  
9 where this group of debtor defendants, borrowers of Huntington,  
10 are bleeding cash, and Mr. O'Neill is prepared to address that.  
11 We've addressed it in the affidavit.

12 But the company has incurred additional indebtedness  
13 of roughly \$20 million since December of '18 on working capital  
14 assets. There was a memorandum of understanding that was  
15 specifically referenced in our pleadings in the Twentieth  
16 Amendment where there was going to be a capital infusion of  
17 \$25 million by AAPICO. Sakthi agreed to that, Your Honor. We  
18 gave him 60 days to close it, and once again that didn't  
19 happen. The forecast in vendor payments exceed the  
20 availability under Huntington's line. Again, there's  
21 payroll-related costs of \$1.3 million, capital expenditures of  
22 967.

23 The interesting also thing, Your Honor, is they talk  
24 about they have \$2 million and 1.7 of avail -- in availability.  
25 The only reason why they have that is because GM was forced in

1 connection to essentially protect its production and purchase  
2 participation in Huntington's facility on February 12th and  
3 March 15th respectively, less than two weeks ago. The  
4 March 15th was used to provide availability to make payroll.  
5 And now here we are today again, Your Honor, on the brink of  
6 payroll, and they don't -- they have money, but that money  
7 would never have been available unless GM came in and purchased  
8 that participation.

9           Their statements completely ignore the reality that  
10 they don't have sufficient availability to meet their operating  
11 cash needs, and there needs to be an infusion of new financing.  
12 Nowhere in their pleadings are they showing up stating that  
13 here's a check, Huntington, we're paying you off, or that we  
14 have a binding commitment letter from another lender.  
15 Essentially they're saying, Huntington, continue to lend. But  
16 once we meet the borrowing base, then there's no further  
17 availability. And if GM isn't willing to put in any new money  
18 and if AAPICO isn't willing to put in a \$25 million loan  
19 outside of a receivership, Your Honor, we're talking, at  
20 outright liquidation, the loss of 600 jobs and everybody loses.

21           THE COURT: Right.

22           MR. OPINCAR: The receiver is necessary as the  
23 condition precedent to make those events happen.

24           THE COURT: All right. The bank says that they want  
25 apparently the receiver to deal with manufacturing facilities

1 and business operations located at the locations identified on  
2 Exhibit B, but Exhibit B only states, quote, "Any and all real  
3 property owned or leased by any defendants." Do I -- do I have  
4 that wrong, because I wasn't able to locate from Exhibit B,  
5 drilling down on this, where the -- where the business  
6 operations are even located, so I don't quite know what our  
7 order would say.

8 MR. OPINCAR: Your Honor, that Exhibit B can be  
9 modified to the extent that that needs to happen, but they have  
10 manufacturing operations located at a Detroit campus: West Fort  
11 Street, Waterman Street, American Way. The schedules to the  
12 Credit Agreement list the owned property; they're part of  
13 Exhibit A. In addition, there's certain defined terms in the  
14 Intercreditor Agreement regarding the real estate collateral  
15 and there's legal descriptions attached thereto.

16 THE COURT: All right. All right. Let me hear from  
17 Mr. Essad briefly and then we'll give you the last word, Mr.  
18 Opincar. Thank you very much for your argument. I know you're  
19 well prepared. Frankly, you know a lot more about the case  
20 than I do at this point and your remarks are very helpful.

21 MR. OPINCAR: Thank you, Your Honor.

22 THE COURT: Okay. Mr. Essad.

23 MR. ESSAD: Good morning, Your Honor.

24 THE COURT: Doesn't look like you're in good shape  
25 here. You've been negotiating but haven't made any payments,

1 one unfulfilled promise after another, and the -- the -- the --  
2 General Motors is -- they rely on your clients and they're very  
3 concerned that they're not going to get the output they need to  
4 keep their production line in -- in business, and if that -- or  
5 going, and if that happens, that's big trouble for everybody.  
6 So what -- what -- what -- what is your best argument for  
7 avoiding a TRO and imposition of a receiver based on your  
8 agreement at paragraph 11.5? Go right ahead.

9 MR. ESSAD: Thank you, Your Honor.

10 First, our apologies for the timings on the filing,  
11 but --

12 THE COURT: You don't have to apologize for that.  
13 I -- I didn't know anything about this 24 hours ago, so it  
14 seems to me you made a yeoman effort to get something on the  
15 record. I'm glad you're here. Go -- go ahead.

16 MR. ESSAD: Thank you.

17 THE COURT: I'm eager to listen to anything you have  
18 to say.

19 MR. ESSAD: Yep. Your Honor, in the Complaint the  
20 bank cites four events of default in paragraph 15, page 5, and  
21 we would submit to the Court that none of these are defaults.

22 Number one, yes, they did send us a Notice of the  
23 Default. That they claim that we have generated a significant  
24 shortfall due to operating losses. There were operating  
25 losses. That situation has been corrected. I have Mr.

1 Manickam here from the company. He can attest to the company's  
2 current financial state. They do have cash in the bank. They  
3 are able to make payroll. They are running their production  
4 lines. They've met every requirement that GM has put upon them  
5 with respect to the supply of parts. The parts are critical,  
6 as we understand it, to GM. They go into a particular line  
7 which makes up a large part of GM's production models. That  
8 part is being produced, has been produced and will continue to  
9 be produced.

10 Now, they make an issue out of a \$4 million theft  
11 that occurred at -- out of the warehouse in effect. Parts were  
12 stolen, the FBI was called, they were tracked down, two  
13 different companies were located as having received the parts.  
14 We're currently in negotiations with them to get payment for  
15 those parts. There's an insurance claim which is pending which  
16 will cover at least \$1 million of any loss and possibly as much  
17 as 4 million, which is the -- the claimed entire loss.

18 The inaccurate base certificates that they claim that  
19 we submitted, we have no knowledge of what they're talking  
20 about. Huron Consulting, which essentially runs the finances  
21 of this company, was hired at the behest of the bank, and the  
22 company, the defendants, are paying between 40 and \$60,000 a  
23 week to the bank's consultant to monitor the cash flows,  
24 monitor the finances, and no check can even be cut without  
25 Huron Consulting signing off on it. So the bank already has



1 essentially a de facto receiver over the cash.

2 THE COURT: They're loaning or they're advancing  
3 money to your client that they don't necessarily have to, is  
4 that...

5 MR. ESSAD: I -- I've never seen a bank loan document  
6 that says they have to advance money if they decide they don't  
7 want to.

8 THE COURT: Yeah.

9 MR. ESSAD: Okay. We have between 11 and \$15 million  
10 in receivables from GM and Ford. Typically what happens is we  
11 get the receivable, that receivable is tendered to the bank,  
12 the bank tenders back to us 85 percent against that receivable.  
13 That's where we get our cash until the receivable comes in, in  
14 which case the bank gets their 85 percent back plus interest,  
15 we get the balance of the cash for our coffers. That's been  
16 the continuing system since they got involved with FirstMerit  
17 and subsequently Huntington.

18 Yes, GM's involved. GM's gotten involved through a  
19 participation in the Credit Agreement. They did so to make  
20 sure that the rough times that the company was going through  
21 got patched over. Well, I would submit to the Court that Mr.  
22 Manickam who's here will tell the Court that they've gotten  
23 past whatever inefficiencies are claimed by the bank. They've  
24 gotten past whatever issues they had for operations and  
25 shipping.

1           The -- the one incredible statement the bank makes as  
2           an event of default is that we're near the maximum on our line  
3           of credit. I don't know how getting near the maximum amount on  
4           your line of credit is a default under a line of credit. That  
5           just absolutely makes no sense.

6           But there's tremendous harm I would submit to the  
7           Court, tremendous harm to the company by appointing a receiver.  
8           AAPICO is owed \$14 million by March 31st under this agreement  
9           that we've attached as an exhibit to our answer. If AAPICO  
10          doesn't get that \$14 million, we believe they then will seek to  
11          grab control of the company under this so-called memorandum  
12          that's there.

13           THE COURT: Okay.

14           MR. ESSAD: The company's arranged for the  
15          \$14 million to be paid to AAPICO by one of their holding  
16          companies. And I know we submitted to the Court this complex,  
17          convoluted sort of organizational chart, but that's what  
18          exists.

19           THE COURT: Okay.

20           MR. ESSAD: The \$14 million comes in, AAPICO no  
21          longer has an ability to become a majority owner in this  
22          company and the existing founding shareholders would remain in  
23          control.

24           THE COURT: All right.

25           MR. ESSAD: And frankly, Judge, the bank is crying

1 wolf here: there's a default, there's a default, there's a  
2 default. The four things that they cite, none of them are  
3 default.

4 The -- the one last item that they claim is a default  
5 is this Wayne County lawsuit. They claim that that is a  
6 default under 5.9 of the Credit Agreement: "Solvency, No  
7 Litigation, No Violation, ERISA." If the Court were to read  
8 that, especially paragraph 5.9 sub(b), the Court would see that  
9 the litigation which is pending in Wayne County must be -- must  
10 have a material adverse effect on the company. Well, a closer  
11 look at the --

12 THE COURT: I -- I don't know. I -- I'm not going to  
13 be able to figure that out now, although I understand your  
14 position, and I think I have your entire position based on your  
15 filing this morning and the arguments you made. Is there  
16 anything else you'd like to say as to the four factors or the  
17 remedy of a receiver before we give Mr. Opincar the last shot  
18 at it?

19 MR. ESSAD: We -- we think the -- the Court obviously  
20 correctly cites that -- that a receivership is an extraordinary  
21 remedy, that they're not talking about any irreparable harm to  
22 anybody here, and -- but the Court early on mentioned a status  
23 quo order and we think that might be the right remedy at this  
24 point in time.

25 THE COURT: All right.

1 MR. ESSAD: And if we're going to default, if we're  
2 not going to make payroll, you're going to know that.

3 THE COURT: Right.

4 MR. ESSAD: And you're going to know that in the next  
5 week or so.

6 THE COURT: Right.

7 MR. ESSAD: So that's what I would request.

8 THE COURT: That's one of the ideas that I have.  
9 Okay. All right. Very good.

10 MR. ESSAD: Thank you.

11 THE COURT: All right. Thank you, Mr. Essad. I  
12 appreciate that very much.

13 MR. OPINCAR: Your Honor?

14 THE COURT: Yes, sir.

15 MR. OPINCAR: If I may, my request -- it seems like  
16 counsel's speaking for GM. GM's here, is present, in addition  
17 to AAPICO's here. Would the Court at least give an  
18 opportunity, maybe even just a minute, to hear from GM's  
19 counsel?

20 THE COURT: Maybe a minute, maybe a minute. But  
21 you -- you finish up and --

22 MR. OPINCAR: Sure. Well --

23 THE COURT: -- if Mr. Huget wants to -- to put his  
24 client's position on the record, he --

25 MR. OPINCAR: Yes, Your Honor. There -- there's not

1 just four events of default, and you can try to attempt to poke  
2 holes, but there's annual financial statements that haven't  
3 been provided. No monthly financial statements under 9.6 of  
4 the Agreement have been provided since December 31 of '18; no  
5 operating budget; dysfunction amongst directors that are also  
6 shareholders that are suing each other; breach of covenants;  
7 change of control. So there's multiple events of default that  
8 are current, Your Honor, and currently exist.

9 In connection with, again, discretionary advances, I  
10 believe that the defendants are simply ignoring the fact that  
11 on March 14th, in accordance with the terms of the loan  
12 documents that they admit in their answer that they signed,  
13 that upon the event of default, Huntington can exercise  
14 remedies. One of those remedies is an acceleration of all  
15 indebtedness, all indebtedness is immediately due.

16 THE COURT: Right.

17 MR. OPINCAR: We don't have any obligation  
18 whatsoever, Your Honor, to continue to make discretionary  
19 advances. We could stop today.

20 THE COURT: Right.

21 MR. OPINCAR: Your Honor, we don't want to do that.  
22 We're trying to work, right, on a process with GM, with others  
23 to maximize value of all the collateral, preserve jobs and get  
24 to some path. The problem is is that we've been spinning  
25 wheels for four months and we're not getting anywhere.

1           Your Honor, I would like permission please to ask for  
2           GM to address the interruption and the irreparable harm to  
3           Sakthi to the extent they don't provide the accommodations upon  
4           the appointment of a receiver.

5           THE COURT: Let's hear from Mr. Huget briefly, then  
6           I'll say a few things and we'll adjourn for the day. Thank you  
7           again, Mr. Opincar.

8           MR. OPINCAR: Thank you, Your Honor.

9           THE COURT: Good morning again, Mr. Huget.

10          MR. HUGET: Good morning, Your Honor. Thank you for  
11          the opportunity to be heard on behalf of General Motors. I'll  
12          be very brief.

13          THE COURT: Yes.

14          MR. HUGET: Your Honor, the Court should be aware  
15          that General Motors has made \$15 million in loans and incurred  
16          more than \$11 million of expedited freight, freight charges to  
17          keep this plant running. Without this, all the operations  
18          would have shut down and impacted thousands of employees.

19          We don't see any reason -- nothing's changed,  
20          nothing's improved. If the Court doesn't take the drastic  
21          action the bank has asked for, we don't see the situation  
22          getting better and we see it getting dramatically worse.

23          THE COURT: Okay.

24          MR. HUGET: So we -- we would concur on the Court --  
25          on Huntington's request for a receiver.

1 THE COURT: All right.

2 MR. HUGET: Thank you, Your Honor.

3 THE COURT: Wait a minute. Thank you, 15 million,  
4 that's in addition to these continuing --

5 MR. HUGET: Correct.

6 THE COURT: All right. Okay.

7 MR. HUGET: And that those -- those have been going  
8 on since September. October I think was the first loan. We've  
9 been in discussions with them since September. They've  
10 repeatedly told us that without the loans and without the  
11 accommodations we've made, that they wouldn't be able to  
12 produce parts. So we don't see -- nothing has changed, and  
13 counsel for Sakthi didn't make any representations that  
14 anything has changed in that regard, so our -- our concerns  
15 about there are the threats of a shutdown are -- are immediate  
16 and apparent.

17 THE COURT: All right.

18 MR. HUGET: Thank you.

19 THE COURT: Okay. Thank you again. All right.  
20 Unfortunately, this isn't the greatest time for an emergency to  
21 break out because we've had an awful lot of courtroom activity  
22 this week. However, I hope you know I took this seriously and  
23 made time on the -- the calendar.

24 I need to frankly review Mr. Essad's opposition a  
25 little more in depth. I also need to digest what we've talked

1 about here. So I'm going to take the motion of Huntington  
2 National Bank under advisement for the time being, but I  
3 promise you I will get a quick resolution of it on the docket.

4 Should there be a default or a lack of payroll being  
5 issued this afternoon or tomorrow, I think you should call the  
6 Court right away and we should do a -- a status call.

7 In the meantime, as I undertake to analyze the four  
8 factors set forth in *Meyer Jewelry* that the Sixth Circuit  
9 pronounced many, many years ago, I'm going to set a  
10 continuation of this hearing and call it a -- I'm going to --  
11 what I'd like to do is ask for more extensive but quick  
12 briefing on a motion for a preliminary injunction which would  
13 naturally -- I think you filed for one of those, didn't you,  
14 Mr. Opincar? I'm not a hundred percent familiar with the  
15 dock -- you can stay there at your table and just -- did you  
16 file for a motion for preliminary injunction as well as the --  
17 I think you lodged one of those with your Complaint or am I  
18 wrong about that?

19 MR. OPINCAR: We -- we did provide a separate motion  
20 as required by the rule, Your Honor, but it was part of our  
21 emergency motion to appoint receiver and for a temporary  
22 restraining order.

23 THE COURT: Right.

24 MR. OPINCAR: Under 65(b), we believe that we've met  
25 the qualifications of 65(b), but it isn't an ex-parte motion,



1 Your Honor. We did provide notice.

2 THE COURT: Right, right, right. Okay. All right.  
3 Good. I'm going to continue the hearing until April 3, 2:00  
4 p.m.; that's next Wednesday afternoon. We'll have a status  
5 conference and/or motion on the what I will call for a  
6 preliminary injunction.

7 I will get an order out in the interim on the motion  
8 for a temporary restraining order and for appointment of  
9 receiver. I hope to get that out within the next 18 to  
10 24 hours. And then -- and then I'll set a briefing schedule  
11 for next Wednesday if we don't -- well, I'll just set a  
12 briefing schedule for next Wednesday.

13 So that's the best I can do. I hope you all have a  
14 little patience with me 'cuz I'm -- I'm doing my best. This is  
15 obviously a voluminous matter that I -- I just learned about,  
16 but I don't want to make a mistake. So I have read the  
17 Complaint, read the motions, read the motion, read the response  
18 of Mr. Essad, conducted a hearing. I will get a order out on  
19 the TRO and receiver forthwith, taking that under advisement  
20 right now, and setting a hearing April 3, 2:00 p.m., either a  
21 status conference or a continuation of this as we decide  
22 whether or not to preliminary -- preliminarily enjoin any  
23 behavior of the defendants in the case. And that's about the  
24 best I can do, all right?

25 MR. OPINCAR: Your Honor, may I ask one question --

1 THE COURT: Yes.

2 MR. OPINCAR: -- just in connection with the April 3rd  
3 hearing? For purposes of that hearing, and I -- I have no idea  
4 what your schedule is, but could that potentially be an  
5 evidentiary hearing, Your Honor, so we should plan on calling  
6 up these witnesses?

7 THE COURT: Potentially, yeah, we -- we can talk  
8 about that.

9 MR. OPINCAR: Thank you.

10 THE COURT: I've got basically nothing that -- that's  
11 Wednesday afternoon and that's why I was looking at my computer  
12 while you were here 'cuz I was thinking we could clear a couple  
13 of hours out for you folks at that time, okay?

14 All right. Thank you all very much for your hard  
15 work.

16 ATTORNEYS (Collectively): Thank you, Your Honor.

17 THE CLERK: All rise. The Court is in recess.

18 (Court in recess at 11:28 a.m.)

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C E R T I F I C A T I O N

I, Linda M. Cavanagh, Official Court Reporter of the United States District Court, Eastern District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing pages 1 through 26 comprise a full, true and correct transcript of the proceedings held in the matter of The Huntington National Bank vs. Sakthi Automotive Group, et al, Case No. 19-10890, on Thursday, March 28, 2019.

s/Linda M. Cavanagh  
Linda M. Cavanagh, RDR, RMR, CRR, CRC  
Federal Official Court Reporter  
United States District Court  
Eastern District of Michigan

Date: March 29, 2019  
Detroit, Michigan